

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA

ANTHONY DeFRANCO,)
Plaintiff,) No. CA-04-230-ERIE
v.) Magistrate Judge Baxter
WILLIAM WOLFE, et al.,) District Judge Cohill
Defendants.)

MOTION TO FURTHER SUPPLEMENT THE RECORD

Plaintiff moves this Honorable Court to allow further supplementation of the record, in considering the pending motion to dismiss, and in the record as a whole, and brings forth:

1. Attached hereto is the recent Declaration by Doctor Angela Lindemuth which clearly states the Doctor's opinion on Plaintiff's z-code and its medical requirement.

2. This Declaration clarifies the Doctor's opinion and how her testimony was either misinterpreted by the Court or misstated by the witness. The reason for the confusing testimony was the intimidation tactic used by Defendant Barr in requesting the Doctor to sign an affidavit drafted by Barr to defeat Plaintiff's T.R.O. Doctor Lindemuth testified that Defendant Barr summoned her to a room and was concerned over the federal court dictating what the prison should do. His concern was not for Plaintiff's health or safety.

3. Doctor Lindemuth is obviously aware that this recently signed Declaration is to be used in federal court. The Doctor did not sign this due to persistence by Plaintiff or as a therapeutic maneuver to appease Plaintiff; Doctor Lindemuth is no longer Plaintiff's treating psychiatrist so this Declaration is no doubt signed to be used to show the Court Plaintiff's need for z-code.

4. As the Declaration states, Plaintiff would suffer irreparable harm if placed in a double cell---and now it cannot be argued that the Declaration is being signed for a staffing before a prison z-code committee. This Declaration is signed for federal court and puts forth the Doctor's true, untainted opinion.

5. The attached Declaration in conjunction with the recent confirmation of the medically required z-code of Plaintiff, by psychiatrists and psychologists at SCI Smithfield, only solidify Doctor Lindemuth's Declaration that Plaintiff does require the z-code (See also the attached request slip).

6. This recently signed Declaration by Doctor Lindemuth places the Defendants on notice of the need of z-code status for Plaintiff. This clarifies the Doctor's true opinion, and places the Defendants on notice of deliberate indifference to a "known" medical need.

WHEREFORE, Plaintiff prays this Honorable Court consider the attached Declaration, allow the record to be supplemented, in deciding the motion to dismiss and in the case-in-chief.

Date: October 5, 2005

Respectfully submitted,

Anthony DeFranco CZ-3518
10745 Route 18
Albion, Pa. 16475-0002

CERTIFICATE OF SERVICE
Service was made by US First
Class Mail to the Attorney
General's Office, 564 Forbes Ave.,
Pittsburgh, Pa. 15219, this date.

(ATTACHED: Dr. Lindemuth Declaration & Request Slip)